

**BOARD OF APPEALS CASE NO. 5087**

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**BEFORE THE**

**APPLICANT: Jarrettsville Veterinary Center**

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**ZONING HEARING EXAMINER**

**REQUEST: Expansion of a non-conforming use  
to enlarge the existing veterinary clinic;  
3961 Norrisville Road, Jarrettsville**

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**OF HARFORD COUNTY**

**HEARING DATE: October 30, 2000**

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**Hearing Advertised**

**Aegis: 9/13/00 & 9/20/00**

**Record: 9/15/00 & 9/22/00**

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## **ZONING HEARING EXAMINER'S DECISION**

The Applicant, Jarrettsville Veterinary Center, is seeking to expand a non-conforming use by adding additional veterinary clinic space to an existing veterinary clinic, pursuant to Section 267-21 of the Harford County Code.

The subject parcel is located at 3961 Norrisville Road, Jarrettsville, Maryland 21084 and is more particularly identified on Tax Map 23, Grid 4E, Parcel 120. The property consists of 5 acres, is zoned AG/Agricultural and is entirely within the Fourth Election District.

The Applicant produced Mr. Stephen D. Wilson who represented himself as the owner of the Jarrettsville Veterinary Clinic. The existing building is 90 feet by 25 feet and there is a barn that is 40 feet by 40 feet. The proposed additional structure is to be 40 feet by 30 feet and represents less than a 50% enlargement to the existing facility. The addition will be the same height as the existing structure and will be similar in appearance. The witness indicated that the clinic has experienced an increase in usage and needs additional space for surgery and office space. The witness did not feel that any adverse impacts would result from a grant of the request.

Mr. James Rutledge appeared next and stated that he was the trustee of the trust that owns the adjoining property. The witness supported the requested expansion and testified that, in his opinion, no adverse impacts would result.

The Department of Planning and Zoning recommends approval of the request. There were no persons who appeared in opposition to the request.

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### **CONCLUSION:**

The Applicant is seeking to enlarge a non-conforming use pursuant to Section 267-21 of the Harford County Code that provides:

“Enlargement or extension of nonconforming buildings, structures or uses.

The Board may authorize the extension or enlargement of a nonconforming use, with or without conditions, provided that:

- A. The proposed extension or enlargement does not change to a less-restricted and more-intense use.
- B. The enlargement or extension does not exceed fifty percent (50%) of the gross square footage in use at the time of the creation of the nonconformity.
- C. The enlargement or extension does not violate the height or coverage regulations for the district.
- D. The enlargement or extension would not adversely affect adjacent properties, traffic patterns or the surrounding neighborhood.
- E. The limitations, guides and standards set forth in § 267-9I, Limitations, guides and standards, are considered by the Board.”

The Hearing Examiner finds that the Applicant has met all of the technical requirements of Harford County Law. While it is true that non-conforming uses can pose a formidable threat to existing zoning uses limiting the effectiveness of land use controls and imperil the zoning plan of a community, the courts have made it clear that existing non-conforming uses can continue in existence subject to various limitations on the right to alter, modify, change or enlarge the non-conforming use. “Whether a nonconforming use can be changed, extended, enlarged, altered, repaired, restored, or recommenced after abandonment ordinarily is governed by the provisions of the applicable local ordinances and regulations.” County Council of Prince George’s County v. E.L. Gardner, Inc., 293 Md. 259, 443 A.2d 114 (1982).

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In the instant case, the local ordinance allowing modifications to a nonconforming use are set forth at Section 267-21 of the Code (recited above). The evidence is clear that the addition will be less than a 50% enlargement. The use will not change to a more restrictive one nor will the height restrictions of the zone be violated. The enlargement will provide more space for activities already occurring on the property so no adverse impacts are anticipated from the grant of the request.

Lastly, the Hearing Examiner adopts the findings and conclusions of the Department of Planning and Zoning in regard to the Limitations, Guides and Standards set forth in Section 267-9I of the Harford County Code, as recited herein:

**“Limitations, guides and standards. In addition to the specific standards, guidelines and criteria described in this Part 1 and other relevant considerations, the Board shall be guided by the following general considerations. Notwithstanding any of the provisions of this Part 1, the Board shall not approve an application if it finds that the proposed building, addition, extension of building or use, use or change of use would adversely affect the public health, safety and general welfare or would result in dangerous traffic conditions or jeopardize the lives or property of people living in the neighborhood. The Board may impose conditions or limitations on any approval, including the posting of performance guaranties, with regard to any of the following:**

- (1) The number of persons living or working in the immediate area.**

*‘The existing veterinary operation will provide a much needed service to the residents of this area of the County.’*

- (2) Traffic conditions, including facilities for pedestrians, such as sidewalks and parking facilities, the access of vehicles to roads; peak periods of traffic; and proposed roads, but only if construction of such roads will commence within the reasonably foreseeable future.**

*‘The property fronts on Norrisville Road (MD Route 23), which is listed as a minor arterial/rural road in the County’s Transportation Plan. This road carries not only local traffic but also commuter traffic. the sight distance at the two (2) entrances is good. The non-conforming facility has existed at this location since before zoning (1957) without being a problem to traffic flow. The proposed addition is located to the rear of the building and will have no impact on traffic conditions.’*

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- (3) The orderly growth of the neighborhood and community and the fiscal impact on the county.**

*‘The proposed expansion of the facility is due to the slow but steady growth that has occurred in the area over that past forty (40) years. This is part of the orderly growth of the community. The Department does not believe that the expansion of the facility will cause any fiscal impact on the County.’*

- (4) The effect of odors, dust, gas, smoke, fumes, vibration, glare and noise upon the use of surrounding properties.**

*‘Based on the issues pursuant to this Section, the proposed expansion should have no impact.’*

- (5) Facilities for police, fire protection, sewerage, water, trash and garbage collection and disposal and the ability of the county or persons to supply such services.**

*‘Police protection will be provided by the County’s local Sheriff’s Department and the Maryland State Police. The Jarrettsville and Norrisville Volunteer Fire Departments will primarily provide fire protection. Water and sewer will be provided by a private on-site well and septic system. The property owner will arrange for trash collection.’*

- (6) The degree to which the development is consistent with generally accepted engineering and planning principles and practices.**

*‘The proposal appears to meet all other requirements of the Zoning Code.’*

- (7) The structures in the vicinity, such as schools, houses of worship, theaters, hospitals and similar places of public use.**

*‘The proposal should have no impact on any of the facilities listed in this section.’*

- (8) The purposes set forth in this Part 1, the Master Plan and related studies for land use, roads, parks, schools, sewers, water, population, recreation and the like.**

*‘The existing use and proposed expansion is a use that is recognized as a use that can co-exist with other uses in the Agricultural District, provided specific conditions could be met. The Applicant’s proposal is able to meet the requirements.’*

- (9) The environmental impact, the effect on sensitive natural features and opportunities for recreation and open space.**

*‘There are no environmental features which will be impacted by this request.’*

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(10) The preservation of cultural and historic landmarks.

*‘Not applicable to this report.’*

The Hearing Examiner, therefore, recommends approval of the subject request, conditioned upon the Applicant obtaining any and all permits and inspections.

Date NOVEMBER 21, 2000

William F. Casey  
Zoning Hearing Examiner